

REMARKS

The formerly pending claims 1-16 are cancelled herein in favor of the newly rewritten claims 17-46. In the Office Action, all of the formerly pending claims were rejected under 35 U.S.C. §112 as being indefinite and under 35 U.S.C. §102(a) and 102(b) as being obvious over U.S. Patent No. 6,338,044 to Cook et al. ("Cook"). For the reasons set forth below, applicant respectfully submits that the presently pending claims are fully distinguished from Cook. Withdrawal of the rejections and allowance of the application are respectfully requested.

In the method for distributing content data now recited in claim 31, a plurality of priorities are assigned to users of a plurality of data terminals. Content data are transmitted from a data server to the plurality of data terminals over an electronic data network in an order of transmission that is at least partly determined by at least one of: the plurality of assigned priorities, or a state of congestion of the electronic data network. Examples of the content data include reproducible program content data for reproduction of a program including at least one of audio or video by one of the data terminals and executable program content data for execution of a program by one of the data terminals in accordance with input from a user.

Such method is neither taught nor suggested by Cook. Although Cook describes a system for distributing content, Cook neither teaches nor suggests a system in which an order of transmitting content data to a plurality of data terminals is at least partly determined by a plurality of priorities assigned to users of the data terminals and/or a state of congestion in an electronic data network.

Similar recitations are found in all of the independent claims 17, 26, 31 and 39 of the application, which

are believed to be fully distinguished from Cook on at least the basis discussed above.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: September 7, 2005

Respectfully submitted,

By 

Daryl K. Neff

Registration No.: 38,253

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant